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S E C R E T SECTION 01 OF 03 MANAMA 000859

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DEPT FOR INL/C, S/CT, NEA/ARP, NEA/PI, AND DS/IP/NEA
DEPT PASS NSC FOR NICK RASMUSSEN
JUSTICE FOR SENIOR COUNSEL JIM REYNOLDS
CAIRO FOR STEVE BONDY

E.O. 12958: DECL: 05/31/2014

TAGS: PTER KJUS ASEC KMPI OEXC BA

SUBJECT: REQUEST FOR INL FUNDING OF OPDAT PROGRAM FOR
BAHRAIN

REF: A. MANAMA 802

¶B. MANAMA 696

Classified By: Ambassador Ronald E. Neumann for reason 1.4(d).

1.(U) This is an Action Message. Please refer to Para 10.

2.(S/NF) Embassy Emergency Action Committee reviewed refs A and B in light of recent developments in Saudi Arabia and existing threats in Bahrain. While the Embassy will maintain diplomatic pressure on the GOB to address our security concerns related to Bahraini Sunni extremists affiliated with Al-Qaida, we believe ref A visit provided a separate, bureaucratic avenue to build a stronger GOB capacity to deal with domestic terrorism threats. Ref A made clear the lack of consensus among Bahraini legal system actors regarding the application of existing Bahraini laws criminalizing inchoate crime as well as considerable ignorance about the importance of stopping terrorists in the planning stages. Ref A also highlighted that Bahrain's legal system is in the midst of a major overhaul. Nearly all of the GOB's prosecutors are newly hired and could benefit from training on counter terrorism, terrorism-related investigations, detention, and prosecution. The Justice Minister stated that he would support training for prosecutors on inchoate crime and criminal investigation techniques, but he would insist on playing a major role in the development and management of the training program.

3.(SBU) At the end of ref A visit, Department of Justice attorneys Reynolds and Schwendiman reviewed options for addressing Bahraini legal actors' need and desire for training with EMBOFFS. The discussion identified three areas of need when it comes to Bahrain's criminal justice capacity for handling terrorism and terrorism related investigations, detention, and prosecutions:

- (a) education and skills training regarding inchoate crimes, i.e., conspiracy ("agreement"), solicitation, attempt;
- (b) getting maximum benefit out of the use of the twelve international terrorism conventions and the chemical and biological weapon conventions through their full adoption, proper legislative implementation and by educating and developing the skills of those who ought to be using them so they can be effective using them; and,
- (c) general legal education and practical skills development (e.g., evidence, standards of proof, burdens of proof, conducting investigations, managing investigations, making charging decisions, marshaling evidence for use in presenting criminal cases that meet international standards, effectively using detention within international human rights limits, courtroom practice, etc.) for newly selected Public Prosecutors.

4.(U) Post proposes an early academic exchange in Bahrain at the University of Bahrain College of Law on the subject of inchoate crime and criminal law practice generally. We recommend that two professors from the S.J. Quinney College of Law of the University of Utah travel to Bahrain, a U.S. District Court Judge, and a Department of Justice lawyer engage in seminars with the faculty and students at the UOB College of Law. The people recently selected as judges and Public Prosecutors should be enlisted to attend the seminars. The seminars should be true exchanges, not lectures or instruction, so that they are an opportunity for our people to learn more detail, through discussion and observation, about the Bahraini system and about the state of Bahraini practice regarding inchoate crime and criminal law practice in Bahrain. Such a visit would be an opportunity to establish relationships with academics and practitioners that can be used to help develop a resident program for Bahraini visitors that is an important feature of the overall program for meeting the needs we have identified.

5.(U) S.J. Quinney College of Law Professors Erika Luna and

Wayne McCormack have indicated to Assistant Attorney Schwendiman their willingness to travel to Bahrain as early as this summer to conduct a seminar. Professor Luna and Professor McCormack are recognized criminal law scholars with reputations as stellar teachers. They have extensive knowledge of comparative criminal law and constitutional law including knowledge of laws in Arab and Islamic states. If funding could be obligated for a summer program, we would approach the University of Bahrain to host the program. (NOTE: Markus Zimmer, Clerk of the District Court of Utah and Assistant U.S. Attorney Schwendiman of the U.S. Attorney's Office for the District of Utah now have extensive knowledge of Bahrain's legal system and actors. Both have solid connections with the faculty of the S.J. Quinney College of Law. END NOTE)

6.(U) The Embassy recommends that we follow the academic exchange with a four-week resident program in the United States for ten Bahrainis (2 Public Prosecutors, 2 UOB law professors, 2 judges, 2 court administrators, and 2 defense attorneys) who have English language skills that are good enough to permit them to participate in the discussions and programs with ease without the need for translation. It makes sense to us that the resident program should be hosted by the U.S. Attorney's Office of the District of Utah. We are confident that the University of Utah would support the concept, as would judges in the United States District Court for the District of Utah and resident judges for the Tenth Circuit Court of Appeals. (NOTE: U.S. District Judge Paul Cassell is a recognized criminal and constitutional law scholar who argued cases before the United States Supreme Court before becoming a federal judge and who continues to teach at the S.J. Quinney College of Law. Bahrain's Minister of Justice knows Judge Cassel. U.S. Appeals Court Justice Mike McConnell is also a highly respected, published, constitutional law scholar. He has also argued numerous cases before the United States Supreme Court before taking the bench and also continues to teach. END NOTE). The resident program would combine academic work at the University of Utah with practical instruction and actual practice woven together at the United States Attorneys Office in Salt Lake City and at the United States District Court in Salt Lake City. We also recommend that the participants return to Bahrain via Washington, DC. This would provide an opportunity for meetings with appropriate senior USG officials of the executive and judicial branches.

7.(U) The objectives of the resident program in the United States should be to increase the visitors' awareness of the law and practical issues in the areas we have identified as needs. The program should help the visitors become better at identifying and managing issues in theory and practice. It should also provide selected skills training, that is, give the visitors a chance under controlled and non-threatening circumstances to observe and practice the skills that make for an effective criminal justice system. In particular we want them to learn to use the features of the international terrorism conventions, standard concepts for fighting inchoate crime as it applies to counter terrorism investigations and prosecutions. Done properly, the resident program will produce Bahraini professionals, including academics, who can use their experience when they return to Bahrain to teach and instruct others.

8.(U) The resident program should be followed by a regular schedule of academic and professional exchanges conducted in Bahrain and in the United States aimed at maintaining the relationships that are formed through the first academic exchange and the resident program.

9.(U) Phase I Cost Estimate

Business Class Travel for four from Salt Lake City to Bahrain to Salt Lake City -- USD 37,768

Per Diem in Bahrain for four for 8 days - USD 8480

Materials Preparation - USD 5000

Incidental Expenses - USD 1000

Phase I Subtotal - USD 52,248

Phase II Cost Estimate

Tourist Class Travel for 10 Bahrainis from Bahrain - Salt Lake City - Washington, DC - Bahrain -- USD 18,980

Per Diem for 10 Bahrainis to stay in Salt Lake City for 4 weeks -
USD 33,320

Conference Coordination - USD 4000

Materials - USD 5000

Facility Rental - USD 1000

Phase II Subtotal - USD 62,300

Project Total - USD 114,548

Post believes that the GOB might be persuaded to bear some of the financial burden for Phase II. We would be willing to approach the Justice Ministry to provide perdiem for participants while INL funding would pay for the air fare.

10.(U) ACTION REQUEST: The details of this training/exchange plan were prepared by Assistant U.S. Attorney David Schwendiman after his April visit to Bahrain with Justice Department Special Counsel Jim Reynolds. Post would be happy to forward the complete project proposal by e-mail to the appropriate INL action officer. The Embassy requests that INL fund Phases I and II of this program. END ACTION REQUEST.
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